



Michael F. Easley
Governor

William G. Ross, Jr., Secretary
Department of Environment and Natural Resources

Coleen, H. Sullins, Director
Division of Water Quality

September 4, 2007

Buffer Interpretation/Clarification #2007-012

MEMORANDUM

RE: The Division of Water Quality's (DWQ's) stance on the location of the buffer in relation to drainage of a buffered pond as listed in the Table of Uses in the Neuse River Basin Buffer Rule 15A NCAC 02B.0233(6) and the Tar-Pamlico River Basin Buffer Rule 15A NCAC 02B.0259(6), and the time needed after a pond is drained to determine if a stream channel or wetland has reformed in the relic pond.

Current Policy: According to the Table of Uses in the Neuse River Basin Buffer Rule 15A NCAC 02B.0233(6) and the Tar-Pamlico River Basin Buffer Rule 15A NCAC 02B.0259(6), drainage of a pond in a natural drainage way is considered "Exempt" provided that a new riparian buffer with a Zone 1 and Zone 2 per the Neuse River Basin Buffer Rule 15A NCAC 02B.0233(4) and the Tar-Pamlico River Basin Buffer Rule 15A NCAC 02B.0259(4) is established adjacent to the new channel and diffuse flow is maintained through Zone 1 and Zone 2 of the newly established buffer.

Problem: The amount of time deemed necessary for a new channel to form within the drained pond has not been established. In addition, no specific guidance on how to drain the pond has been generated.

Solution: After pumping and/or siphoning substantially all of the water out of the pond, the dam should be breached at a location in alignment with the downstream channel. The dam should be breached in a manner that does not result in erosive flows or sediment impact to downstream waters. Breaching the dam should be conducted in accordance with Division of Land Resources protocols, as well as in compliance with Division of Wildlife Resources and all applicable permits and authorizations must be secured.

No channels, diversions, ditches or other excavated or constructed conveyances through the buffer should be used to drain the pond, as such actions are prohibited in the Neuse River Basin Buffer Rule 15A NCAC 02B.0233(6) and the Tar-Pamlico River Basin Buffer Rule 15A NCAC 02B.0259(6).

Once the pond has been drained, the original pond buffers remain in place unless a Zone 1 and Zone 2 buffer is replanted along both sides of the newly formed stream channel. In cases where a wetland forms in the relic pond, the buffer would remain until sufficient time has passed for a channel to form in the bed of the pond. DWQ personnel must make an on-site determination of the extent of the new buffers. The amount of time required should be a minimum of six months, but may vary depending on regional climatic conditions (drought, etc.). The site should be evaluated during the winter months (January – March), when most intermittent streams have base flow.

Signature: _____

Date: _____

9/4/07